

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

JOSE RIVERA SANTIAGO

Plaintiff

vs

COMMISSIONER OF SOCIAL
SECURITY

Defendant

CIVIL 04-2189 CCC

ORDER

This is an action filed pursuant to §205(g) of the Social Security Act, as amended, 42 U.S.C. §405(g) to review a "final decision of the Commissioner of Social Security. This section provides, inter alia, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner, with or without remanding the cause for a rehearing" and that "[t]he findings of the Commissioner as to any fact, if supported by substantial evidence, shall be conclusive.

Having reviewed the transcript of the administrative hearing, medical records and evidence, we find, for the reasons set forth below, that the Commissioner's final decision is not supported by substantial evidence on the record as a whole. There is no evidence that the ALJ considered the severity of pain caused by "the herniation of the intervertebral disc at the L4-L5 level with the extrusion of disc material into the midline producing severe segmental canal stenosis at this level." contained in the MRI report of August 31, 2001 from Dr. Emilio Torres Reyes, a nueroradiologist. (Record Appendix p.153)

Accordingly, we therefore **REVERSE** the decision and remand the action for the calculation of benefits, from the date of August 31, 2000.

SO ORDERED.

At San Juan, Puerto Rico, on July 29, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge